



March 2, 2001

SENATE BILL No. 448

DIGEST OF SB 448 (Updated March 1, 2001 1:30 PM - DI 51)

Citations Affected: IC 3-11; IC 5-26.5.

Synopsis: Address confidentiality program. Establishes an address confidentiality program in the office of the attorney general. Makes the program available to individuals (including minors and incapacitated persons represented by a parent or guardian) who have obtained a protective order to protect them from domestic violence and wish to keep their addresses confidential from their abusers. Prescribes guidelines for the administration of the program. Provides that an address designated by the office of the attorney general serves as the individual's address for purposes of: (1) service of process; and (2) receipt of mail. Enables the individual to vote without making the individual's address available to the public. Requires the address of the individual who participates in the program to remain confidential except under certain circumstances. Specifies that an individual who provides false or incorrect information on a program application commits perjury. Requires the office of the attorney general to designate certain agencies that provide services to victims of domestic violence to assist an individual who applies to the program.

Effective: July 1, 2001.

Simpson, Kenley, Zakas, Young R

January 18, 2001, read first time and referred to Committee on Judiciary.
March 1, 2001, amended, reported favorably — Do Pass.

SB 448—LS 7997/DI 103+



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March 2, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 448

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-11-4-6 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) This section applies,
3 notwithstanding any other provision of this title, to absentee ballot
4 applications for:

5 (1) an absent uniformed services voter (as defined in 42 U.S.C.
6 1973ff-6(1)); **and**

7 (2) **an address confidentiality program participant (as defined**
8 **in IC 5-26.5-1-6).**

9 (b) A county election board shall make blank absentee ballot
10 applications available for persons covered by this section after
11 November 20 preceding the election to which the application applies.
12 Except as provided in subsection (c), the person may apply for an
13 absentee ballot at any time after the applications are made available.

14 (c) A person covered by this section may apply for an absentee
15 ballot for the next scheduled primary, general, or special election at any
16 time by filing a standard form approved under 42 U.S.C. 1973ff-(b).

17 (d) If the county election board receives an absentee ballot

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1 application from a person described by this section, the circuit court
 2 clerk shall mail to the person, free of postage as provided by 39 U.S.C.
 3 3406, all ballots for the election immediately upon receipt of the ballots
 4 under sections 13 and 15 of this chapter.

5 (e) Whenever an absent uniformed services voter **or an address**
 6 **confidentiality program participant (as defined in IC 5-26.5-1-6)**
 7 files an application for a primary election absentee ballot and indicates
 8 on the application that:

9 (1) the voter **is an absent uniformed services voter and** does not
 10 expect to be in the county on general election day and on the date
 11 of any special election conducted during the twelve (12) months
 12 following the date of the application; **or**

13 (2) **the voter is an address confidentiality program**
 14 **participant;**

15 the application is an adequate application for a general election
 16 absentee ballot under this chapter and an absentee ballot for a special
 17 election conducted during the twelve (12) months following the date of
 18 the application. The circuit court clerk and county election board shall
 19 process this application and mail general election and special election
 20 absentee ballots to the voter in the same manner as other general
 21 election and special election absentee ballot applications and ballots
 22 are processed and mailed under this chapter.

23 (f) **The county voter registration office may not disclose for**
 24 **public inspection or copying the address of a confidentiality**
 25 **program participant (as defined in IC 5-26.5-1-6) that is contained**
 26 **in voter registration records except as follows:**

27 (1) **To a law enforcement agency, upon request.**

28 (2) **As directed by a court order.**

29 (g) This subsection applies to a county election board that owns or
 30 has access to a facsimile (FAX) machine. The county election board
 31 may transmit and receive absentee ballots by FAX machine to voters
 32 covered under the Uniformed and Overseas Absentee Voting Act (42
 33 U.S.C. 1973ff) under the following circumstances:

34 (1) If an emergency is declared by the President of the United
 35 States, the Congress of the United States, or the presidential
 36 designee under the Uniformed and Overseas Absentee Voting Act
 37 (42 U.S.C. 1973ff).

38 (2) If otherwise mandated to do so under federal law.

39 SECTION 2. IC 3-11-4-7 IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2001]: Sec. 7. An absentee ballot application
 41 under section 6 of this chapter must:

42 (1) be made on a standard form approved under 42 U.S.C.

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1973ff-(b) or on the form prescribed by the commission under section 5.1 of this chapter; and

(2) show that the:

(A) absent uniformed services voter (as defined in 42 U.S.C. 1973ff-6(1)); or

(B) address confidentiality program participant (as defined in IC 5-26.5-1-6);

is a resident otherwise qualified to vote in the precinct.

SECTION 3. IC 5-26.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

ARTICLE 26.5. ADDRESS CONFIDENTIALITY PROGRAM

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Address" means:

- (1) a residential street address;
- (2) a school address; or
- (3) a work address;

of an individual as specified on an individual's application to be a program participant.

Sec. 3. "Domestic violence" includes conduct that is an element of an offense under IC 35-42 or a threat to commit an act described in IC 35-42 by a person against a person who:

- (1) is or was a spouse of;
- (2) is or was living as if a spouse of;
- (3) has a child in common with;
- (4) is a minor subject to the control of; or
- (5) is an incapacitated individual under the guardianship or otherwise subject to the control of;

the other person regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution.

Sec. 4. "Incapacitated individual" has the meaning set forth in IC 12-10-7-1.

Sec. 5. "Minor" means a person who is less than eighteen (18) years of age.

Sec. 6. "Program participant" refers to an individual certified as a program participant under IC 5-26.5-2-3.

Sec. 7. "Protective order" means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term



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includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction.

Chapter 2. Address Confidentiality Program

Sec. 1. The following individuals may apply to the office of the attorney general to have an address designated by the office of the attorney general serve as the individual's address or as the address of a minor or an incapacitated individual:

- (1) An individual who is at least eighteen (18) years of age.**
- (2) A parent or guardian acting on behalf of a minor.**
- (3) A guardian acting on behalf of an incapacitated individual.**

Sec. 2. The office of the attorney general shall approve an application filed in the manner and on a form prescribed by the office of the attorney general if the application contains the following:

- (1) A sworn statement by the applicant that the applicant has good reason to believe that:**

- (A) the applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence; and**

- (B) the applicant fears for:**

- (i) the applicant's safety; or**

- (ii) the safety of a minor or an incapacitated individual on whose behalf the application is made.**

- (2) A copy of a valid protective order issued on behalf of the applicant or the minor or incapacitated individual on whose behalf the application is made.**

- (3) A designation of the office of the attorney general as an agent of the applicant for the purpose of:**

- (A) service of process; and**

- (B) receipt of mail.**

- (4) The:**

- (A) mailing address; and**

- (B) telephone number;**

where the applicant may be contacted by the office of the attorney general.

- (5) The new address that the applicant requests not be disclosed because disclosure may increase the risk of domestic violence.**

- (6) The signature of the applicant and of any representative of an agency designated under IC 5-26.5-3-4 that assisted in the preparation of the application.**

- (7) The date the applicant signed the application.**



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1 **Sec. 3. (a)** Upon approving an application under section 2 of this
 2 chapter, the office of the attorney general shall certify the
 3 applicant as a program participant.

4 **(b)** Except as otherwise provided by statute, the residential and
 5 work addresses and telephone numbers of a program participant
 6 are confidential.

7 **Sec. 4.** A program participant may use an address designated by
 8 the office of the attorney general as the program participant's
 9 work address.

10 **Sec. 5.** A program participant who is otherwise qualified to vote
 11 may apply to vote in the same manner as an absent uniformed
 12 services voter under IC 3-11-4-6.

13 **Sec. 6.** The certification of a program participant expires on the
 14 earlier of:

15 (1) the date on which the protective order made part of the
 16 program application expires; or

17 (2) four (4) years after the application is filed;
 18 unless certification is withdrawn, revoked, or otherwise invalidated
 19 before that date. The office of the attorney general shall establish
 20 a renewal procedure. However, the office of the attorney general
 21 may renew only the application of a program participant on whose
 22 behalf a valid protective order has been issued.

23 **Sec. 7.** A person who knowingly or intentionally:

24 (1) falsely attests in an application made under this chapter
 25 that disclosure of the applicant's address would endanger:

26 (A) the applicant's safety; or

27 (B) the safety of a minor or an incapacitated individual
 28 upon whose behalf the application is made; or

29 (2) provides false or incorrect information upon making an
 30 application under this chapter;

31 commits perjury.

32 **Chapter 3. Duties of the Office of the Attorney General**

33 **Sec. 1.** The office of the attorney general may adopt rules to
 34 implement this article.

35 **Sec. 2.** The office of the attorney general may not make a
 36 program participant's address, other than an address designated
 37 by the office of the attorney general, available for inspection or
 38 copying except as follows:

39 (1) When requested by a law enforcement agency, to the law
 40 enforcement agency.

41 (2) When directed by a court order, to a person identified in
 42 the order.



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(3) When certification of a program participant is revoked.

Sec. 3. The office of the attorney general shall forward first class mail belonging to a program participant to the program participant.

Sec. 4. The office of the attorney general shall designate:

(1) state and local agencies; and

(2) nonprofit agencies;

that provide counseling and shelter services to victims of domestic violence to assist persons in applying to be program participants.

Sec. 5. Assistance and counseling provided by the office of the attorney general or its designees to applicants under this article may not be construed as legal advice.

Chapter 4. Revocation of Certification as a Program Participant

Sec. 1. The office of the attorney general shall revoke the certification of a program participant who obtains a change of name under IC 34-28-2.

Sec. 2. The office of the attorney general may revoke a program participant's certification if the program participant changes the program participant's residential address from the address listed on the application, unless the program participant provides the office of the attorney general with written notice seven (7) days before the change of address.

Sec. 3. The office of the attorney general may revoke the certification of a program participant if mail forwarded by the office of the attorney general to the program participant's address is returned as undeliverable.

Sec. 4. The office of the attorney general shall revoke the certification of a program participant who has applied to the address confidentiality program using false information.

Chapter 5. Agency Use of Designated Address

Sec. 1. A program participant may request that a state or local agency use the address designated by the office of the attorney general as the program participant's address.

Sec. 2. (a) Whenever a state or local agency creates a new public record, the agency shall accept the address designated by the office of the attorney general as a program participant's substitute address unless the office of the attorney general determines that the agency is required by statute or administrative rule to use an address that would otherwise be confidential under this article.

(b) A state or local agency that uses a confidential address under subsection (a) may use the confidential address only for the purpose set out in the statute or administrative rule identified



1 **under subsection (a).**

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SENATE MOTION

Mr. President: I move that Senator Kenley be added as second author and Senators Zakas and Young R be added as coauthors of Senate Bill 448.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 448, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 23, delete "auditor shall" and insert "**voter registration office may**".

Page 3, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 7. "Protective order" means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction."

Page 4, between lines 18 and 19, begin a new line block indented and insert:

"(2) A copy of a valid protective order issued on behalf of the applicant or the minor or incapacitated individual on whose behalf the application is made."

Page 4, line 19, delete "(2)" and insert "(3)".

Page 4, line 23, delete "(3)" and insert "(4)".

Page 4, line 28, delete "(4)" and insert "(5)".

Page 4, line 31, delete "(5)" and insert "(6)".

Page 4, line 34, delete "(6)" and insert "(7)".

Page 5, line 5, delete "duration of".

Page 5, line 5, delete "as" and insert "of".

Page 5, line 5, delete "is" and insert "**expires on the earlier of:**

(1) the date on which the protective order made part of the program application expires; or

(2)".

Page 5, line 6, after "years" insert "**after the application is filed;**".

Page 5, line 6, begin a new line blocked left beginning with "unless".

Page 5, line 7, delete "The period begins the date".

Page 5, line 8, delete "an application is filed".

Page 5, line 9, after "procedure." insert "**However, the office of the attorney general may renew only the application of a program participant on whose behalf a valid protective order has been issued."**

Page 5, line 18, delete "a Class B misdemeanor." and insert "**perjury."**

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Page 6, line 8, after "with" insert "**written**".
and when so amended that said bill do pass.

(Reference is to SB 448 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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